

AWARD
NASD Dispute Resolution

In the Matter of the Arbitration Between

Claimants

Howard M. Giroux and Ilene J. Giroux

and

Case Number: 03-09125
Hearing Site: Troy, Michigan

Respondents

Merrill Lynch, Pierce, Fenner & Smith, Inc.,
Mark W. Bublitz, Deborah Corson, and
Michael Livernois

NATURE OF DISPUTE

Customer v. Member and Associated Persons

REPRESENTATION OF PARTIES

Howard M. Giroux and Ilene J. Giroux ("Claimants") were represented by David M. Foster, Esq., David M. Foster, P.C., Farmington Hills, Michigan.

Merrill Lynch, Pierce, Fenner & Smith, Inc. ("MLPFS"), Mark W. Bublitz ("Bublitz"), Deborah Corson ("Corson"), and Michael Livernois ("Livernois"), hereinafter collectively referred to as "Respondents," were represented by Clarence Pozza, Esq., and W. Scott Turnbull, Esq., Miller Canfield, Paddock & Stone, P.L.C.

CASE INFORMATION

The Statement of Claim was filed on or about December 29, 2003. The Submission Agreement of Howard M. Giroux and Ilene J. Giroux was signed on or about December 22, 2003.

The Statement of Answer was filed jointly by Respondents on or about March 18, 2004. The Submission Agreement of Merrill Lynch, Pierce, Fenner & Smith, Inc. was signed on or about March 19, 2004. The Submission Agreement of Mark W. Bublitz was signed on or about March 20, 2004. The Submission Agreement of Deborah Corson was signed on or about March 15, 2004. The Submission Agreement of Michael Livernois was signed on or about March 11, 2004.

CASE SUMMARY

Claimants asserted the following causes of action: breach of fiduciary duty for recommending unsuitable investments; breach of fiduciary duty by MLPFS to properly supervise its employees; fraudulent misrepresentation; violation of section 10(b) of the Security Exchange Act and SEC Rule 10b-5 for making unsuitable recommendations; innocent misrepresentation; and violation of Michigan blue sky laws. The causes of action relate to the recommendation and purchase of stocks including JDI Uniphase, EMC, Applied Micro Circuits, Flextronics, and Intel.

Unless specifically admitted in their Answer, Respondents denied the allegations made in the Statement of Claim and asserted affirmative defenses including the following: the Statement of Claim fails to state a claim upon which relief can be granted; the Statement of Claim is barred by reason of the applicable statute of limitations or other period of limitations; and the Statement of Claim is barred by reason of the doctrines of waiver, estoppel, laches and release.

RELIEF REQUESTED

Claimants requested an award in the amount of \$250,000.00, plus interest, attorneys' fees, costs, and any other relief the panel deemed appropriate.

Respondents requested that the claims asserted against them be denied in their entirety and that they be awarded their costs, attorneys' fees and expungement of all references to this matter from the CRD records of Respondents Bublitz, Livernois and Corson.

OTHER ISSUES CONSIDERED & DECIDED

The parties have agreed that the Award in this matter may be executed in counterpart copies or that a handwritten, signed Award may be entered. In either case, the parties have agreed to receive conformed copies of the award while the original(s) remain on file with NASD Dispute Resolution ("NASD").

AWARD

After considering the pleadings, the testimony, and the evidence presented at the hearing, the undersigned arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

- 1.) Respondents, Merrill Lynch, Pierce, Fenner & Smith, Inc., Mark W. Bublitz, Deborah Corson, and Michael Livernois, are jointly and severally liable for and shall pay to Claimant, Howard M. Giroux and Ilene J. Giroux, the sum of \$250,000.00 in compensatory damages;

- 2.) Respondents, Merrill Lynch, Pierce, Fenner & Smith, Inc., Mark W. Bublitz, Deborah Corson, and Michael Livernois, are jointly and severally liable for and shall pay to Claimant, Howard M. Giroux and Ilene J. Giroux, the sum of \$37,612.00 in interest;
- 3.) Other than Forum Fees which are specified below, the parties shall each bear their own costs and expenses incurred in this matter; and
- 4.) Any relief not specifically enumerated, including punitive damages and attorneys' fees, is hereby denied with prejudice.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

NASD Dispute Resolution will retain or collect the non-refundable filing fees for each claim:

Initial claim filing fee = \$ 300.00

Member Fees

Member fees are assessed to each member firm that is a party in these proceedings or to the member firm that employed the associated persons at the time of the events giving rise to the dispute. In this matter, the member firm is Merrill Lynch, Pierce, Fenner & Smith, Inc.

Member surcharge = \$ 1,700.00
Pre-hearing process fee = \$ 750.00
Hearing process fee = \$ 2,750.00

Forum Fees and Assessments

The Arbitration Panel assesses forum fees for each hearing session conducted. A hearing session is any meeting between the parties and the arbitrator(s), including a pre-hearing conference with the arbitrator(s), that lasts four (4) hours or less. Fees associated with these proceedings are:

One (1) Pre-hearing session with a single arbitrator x \$450.00 = \$ 450.00
Pre-hearing conference: April 4, 2005 1 session

One (1) Pre-hearing session with Panel x \$1,125.00 = \$ 1,125.00
Pre-hearing conference: June 24, 2004 1 session

Thirteen (13) Hearing sessions x \$1,125.00 = \$14,625.00
Hearing Dates: April 5, 2005 2 sessions

April 6, 2005	2 sessions
April 7, 2005	2 sessions
April 21, 2005	2 sessions
April 22, 2005	2 sessions
May 26, 2005	2 sessions
May 27, 2005	1 session

Total Forum Fees	= \$16,200.00
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The Arbitration Panel has assessed \$8,100.00 of the forum fees jointly and severally to Howard M. Giroux and Ilene J. Giroux.

The Arbitration Panel has assessed \$8,100.00 of the forum fees jointly and severally to Merrill Lynch, Pierce, Fenner & Smith, Inc., Mark W. Bublitz, Deborah Corson, and Michael Livernois.

Fee Summary

Claimants, Howard M. Giroux and Ilene J. Giroux, are jointly and severally liable for:

Initial Filing Fee	= \$ 300.00
Forum Fees	= \$ 8,100.00
Total Fees	= \$ 8,400.00
Less payments	= \$ 1,425.00
Balance Due NASD Dispute Resolution	= \$ 6,975.00

Respondent, Merrill Lynch, Pierce, Fenner & Smith, Inc., is liable for:

Member Fees	= \$ 5,200.00
Total Fees	= \$ 5,200.00
Less payments	= \$ 5,200.00
Balance Due NASD Dispute Resolution	= \$ 0.00

Respondents, Merrill Lynch, Pierce, Fenner & Smith, Inc. Mark W. Bublitz, Deborah Corson, and Michael Livernois, are jointly and severally liable for:

Forum Fees	= \$ 8,100.00
Total Fees	= \$ 8,100.00
Less payments	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$ 8,100.00

All balances are payable to NASD Dispute Resolution and are due upon receipt pursuant to Rule 10330(g) of the Code.

ARBITRATION PANEL

Harvey Frank - Public Arbitrator, Presiding Chair
Norman Bristol, Esq. - Public Arbitrator
Frederick L. Mirbach, Jr. - Non-Public Arbitrator

Concurring Arbitrators:

/s/ Harvey Frank
Harvey Frank
Public Arbitrator, Presiding Chair

05/31/05
Signature Date

/s/ Norman Bristol, Esq.
Norman Bristol, Esq.
Public Arbitrator

06/01/05
Signature Date

/s/ Frederick L. Mirbach, Jr.
Frederick L. Mirbach, Jr.
Non-Public Arbitrator

05/31/05
Signature Date

06/01/05
Date of Service (For NASD office use only)

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ARBITRATION PANEL

Harvey Frank - Public Arbitrator, Presiding Chair
Norman Bristol, Esq. - Public Arbitrator
Frederick L. Mirbach, Jr. - Non-Public Arbitrator

Concurring Arbitrators:

Harvey Frank
Harvey Frank
Public Arbitrator, Presiding Chair

5/31/05
Signature Date

Norman Bristol, Esq.
Norman Bristol, Esq.
Public Arbitrator

Signature Date

Frederick L. Mirbach, Jr.
Frederick L. Mirbach, Jr.
Non-Public Arbitrator

Signature Date

Date of Service (For NASD office use only)

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Arbitration No. 03-09128
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ARBITRATION PANEL

Harvey Frank - Public Arbitrator, Presiding Chair
Norman Bristol, Esq. - Public Arbitrator
Frederick L. Mirbach, Jr. - Non-Public Arbitrator

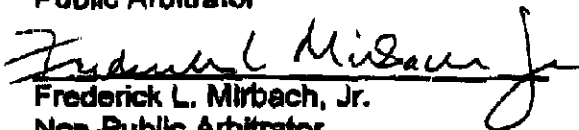
Concurring Arbitrators:

Harvey Frank
Public Arbitrator, Presiding Chair

Signature Date

Norman Bristol, Esq.
Public Arbitrator

Signature Date


Frederick L. Mirbach, Jr.
Non-Public Arbitrator

05/31/2005
Signature Date

Date of Service (For NASD office use only)

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NASD REGULATION

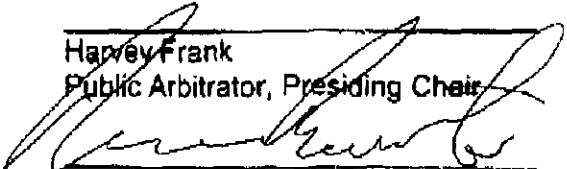
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ARBITRATION PANEL

Harvey Frank - Public Arbitrator, Presiding Chair
Norman Bristol, Esq. - Public Arbitrator
Frederick L. Mirbach, Jr. - Non-Public Arbitrator

Concurring Arbitrators:


Harvey Frank
Public Arbitrator, Presiding Chair

Signature Date


Norman Bristol, Esq.
Public Arbitrator

June 1, 2005
Signature Date

Frederick L. Mirbach, Jr.
Non-Public Arbitrator

Signature Date

Date of Service (For NASD office use only)